

ORAL STATEMENT

# Adoption of the UPR Outcome for Dominican Republic

20 JUNE 2014

The Open Society Justice Initiative welcomes the adoption of the outcome of the Universal Periodic Review of the Dominican Republic, which captures many important recommendations addressing the damaging consequences of a September 2013 ruling by the country’s Constitutional Tribunal on the legal status of Dominicans of Haitian descent.

The tribunal’s ruling retroactively changed the meaning of Dominican constitutional law to convey citizenship on the basis of parents’ immigration status, instead of the basis of birth in the territory of the Dominican Republic. If implemented as is, the ruling would denationalize thousands – if not hundreds of thousands – of Dominicans born to migrant parents since independence in 1929. The vast majority of those affected would be Dominicans of Haitian descent.

The new Ley de Régimen Especial y Naturalización 169-14 fails to address the concerns raised by states and other stakeholders through the UPR process.

If properly implemented, the law could mitigate some consequences of the Constitutional Tribunal’s ruling by recognizing as citizens those who possess registration of their births between 1929 and 2007. However, the Law is framed as a legal concession – a civil amnesty – rather than the restoration of preexisting citizenship rights. The beneficiary population is estimated to be at most 10% of the total number of those affected by the Constitutional Tribunal’s ruling, and it has become clear in recent days that even those whose births were registered will not receive automatic recognition of their Dominican nationality. The process for acquiring such recognition remains obscure. The citizenship status of children born to those benefitting from the law after 2007 is also unknown.

The Law also specifies that birth registration suspected to be fraudulent or involving impersonation will not be recognized, but does not set out a procedure by which such suspicions will be investigated or resolved, reducing even further the number of individuals eligible for recognition of Dominican citizenship and raising the possibility that those whose documents are invalidated will be left stateless.

Still more problematic is that the new Law forces all those without birth registration to register first as foreigners, to obtain a migratory permit, and then be resident for an

additional two years before being eligible for naturalization. Between 1929 and 2007, many Dominicans of Haitian descent were actively prevented from registering births due to systematic, institutionalized discrimination on the part of Dominican civil registration authorities. The citizenship rights of these individuals and their descendants are thus jeopardized by historical failures of the state itself, which is responsible for birth registration.

If individuals born and resident in the Dominican Republic do not have registration of their birth, it is virtually impossible for them to claim any other nationality. In requiring them to register as foreigners, the law will create a stateless population, supposedly for only two years, pending their naturalization. However, naturalization is discretionary, and anyone denied naturalization will remain stateless. The process for accessing the regularization option remains unknown.

The new Law disregards specific recommendations made by the Inter-American Commission during a visit to the Dominican Republic in December 2013, which specified that people who were denationalized should not be required to register as foreigners in order to secure recognition of their citizenship, and that remedial measures must be general and automatic, not discretionary or implemented in a discriminatory fashion.

The Open Society Justice Initiative urges the Dominican Republic to adhere to its pledges to address racial discrimination, not to denationalize anyone who had previously enjoyed nationality, and to ensure fair, transparent, clear and efficient processes for determining nationality. The country's rejection of recommendations related to the impact of the Constitutional Tribunal's ruling, however, reflects a persistent and dangerous unwillingness to acknowledge the gravity and scope of the human rights crisis it created.

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